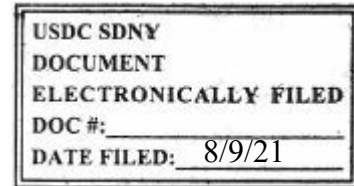


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



Western Waterproofing Company, Inc., *et al.*,

Plaintiff,

—v—

Western Waterproofing Company, Inc., *et al.*,

Defendants.

20-cv-3199 (AJN)

ORDER

ALISON J. NATHAN, District Judge:

On February 22, 2021, Plaintiff Western Waterproofing Company, Inc., filed a motion for partial summary judgment against Defendant Allied World Assurance Company (“Allied”), Dkt. No. 86, and a motion for partial summary judgment against Defendant Zurich American Insurance Company (“Zurich”), Dkt. No. 89. On March 22, 2021, Zurich and Allied each filed a cross motion for summary judgment. Dkt. Nos. 96, 101. On June 23, 2021, the Court granted the unopposed motion of Starr Indemnity & Liability Company (“Starr”) and Navigators Insurance Company (“Navigators”) to intervene pursuant to Federal Rule of Civil Procedure 24. Dkt. No. 126.

On July 22, 2021, two more excess insurers, Philadelphia Indemnity Insurance Company (“PIIC”) and Markel American Insurance Company (“Markel”), filed a motion to intervene. Dkt. No. 136. The Court directed any party to inform the Court by August 6, 2021, if it intended to oppose the motion. Dkt. No. 142. As before, no party has done so.

For the reasons set forth in their memorandum of law in support of the motion, the Court finds that PIIC and Markel have an interest in the outcome of this action as excess insurers; that disposing of the action in their absence may impair their ability to protect that interest; and that

existing parties do not adequately represent that interest. *See* Fed. R. Civ. P. 24(a). The Court also finds that the excess insurers' claims share common questions of law and fact with the existing action and that intervention would not prejudice any other party. *See* Fed. R. Civ. P. 24(b). Therefore, the Court GRANTS PIIC and Markel's unopposed motion to intervene. Dkt. No. 136.

Also before the Court is a request by Starr and Navigators filed on August 4, 2021, for a forty-day period in which to submit "opposition and/or cross motion papers in connection with" Plaintiff Western Waterproofing's pending motion for summary judgment. Dkt. No. 145. Plaintiff Western Waterproofing opposes the motion because Starr and Navigators are not parties to the contract at the center of the pending motions for summary judgment. Dkt. No. 145. But as the Court has previously found, Starr and Navigators nevertheless "have an interest in the outcome of this action" and raise claims that "share common questions of law and fact with the existing action and that intervention would not prejudice any other party." Dkt. No. 126; *see* Fed. R. Civ. P. 24(a), (b). Accordingly, the Court GRANTS Starr and Navigators' motion.

In light of the above, the Court administratively DENIES the pending motions and cross motions for summary judgment filed by Western Waterproofing, Allied, and Zurich. Dkt. Nos. 86, 89, 96, 101. The parties shall confer on a schedule for all motions for summary judgment, opposition to those motions, and any cross motions for summary judgment. The parties shall file that schedule in a joint letter to the Court by August 13, 2021. The Court will resolve expeditiously the parties' motions once they are submitted.

The motion to consolidate cases dated June 15, 2021, remains pending. Dkt. No. 122.

This resolves Dkt. Nos. 86, 89, 96, 101, 136, 145.

SO ORDERED.

Dated: August 9, 2021
New York, New York

A handwritten signature in black ink, appearing to read "Alison J. Nathan", is positioned above a horizontal line.

ALISON J. NATHAN
United States District Judge